

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE ESTABLISHMENT OF CHARTER SCHOOLS
5 AND CHARTER SCHOOL DISTRICTS AS A MEANS OF PROVIDING ADDITIONAL EDUCATIONAL
6 OPPORTUNITIES FOR THE CHILDREN OF MONTANA; ESTABLISHING BOARDS OF TRUSTEES FOR
7 CHARTER SCHOOL DISTRICTS; ALLOWING FOR CERTAIN WAIVERS; PROVIDING PROPOSAL
8 REQUIREMENTS AND AN APPROVAL PROCESS; PROVIDING FOR A REVIEW PROCESS AND A
9 TERMINATION PROCESS; PROVIDING CERTAIN RESTRICTIONS ON PUBLIC CHARTER SCHOOLS;
10 CREATING PUBLIC CHARTER SCHOOL DEVELOPMENT ACCOUNTS AND PROVIDING FOR THE USE OF
11 THE ACCOUNTS; ALLOWING COLLECTIVE BARGAINING; ALLOCATING STUDENT TRANSPORTATION
12 COSTS; REMOVING THE MORATORIUM ON CREATING NEW SCHOOL DISTRICTS ONLY FOR THE
13 PURPOSE OF CREATING CHARTER SCHOOL DISTRICTS; PROHIBITING THE CHARGING OF TUITION BY
14 A CHARTER SCHOOL DISTRICT; PROVIDING FUNDING AS A PERCENTAGE OF THE TOTAL PER-ANB
15 ENTITLEMENT WITHIN THE BASE BUDGET AND THE MAXIMUM FUND BUDGET OF THE CHILD'S
16 DISTRICT OF RESIDENCE; AMENDING SECTIONS 20-2-121, 20-5-321, 20-5-323, 20-5-324, 20-6-104, AND
17 20-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE."

18

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20

21 NEW SECTION. Section 1. Short title. [Sections 1 through 18] may be cited as the "Montana Charter
22 Schools Act".

23

24 NEW SECTION. Section 2. Legislative intent. (1) Pursuant to Article X, section 9(3)(a), of the Montana
25 constitution, the board of public education is responsible for the general supervision of the public school system
26 and other public educational institutions as may be assigned by law.

27 (2) The legislature believes that establishment of charter schools is necessary to improve the
28 opportunities for all families to choose the public school that best meets the needs of their children and finds that
29 charter schools serve a distinct purpose in supporting innovations and best practices that can be adopted among
30 all public schools. Therefore, the legislature authorizes charter schools and charter school districts while requiring

the measurement of learning outcomes.

NEW SECTION. Section 3. Definitions. As used in [sections 1 through 18], the following definitions apply:

(1) "Applicant" means any person or group developing and submitting a written proposal for a public charter school to a sponsor.

(2) "Authorizer" means an entity established to approve charter schools. The term includes:

(a) the board of trustees of an existing school district in which the public charter school is located that has developed a written charter with an applicant to create a public charter school;

(b) a unit of the university system for which the ultimate responsibility for choosing to sponsor a public charter school and the responsibility for maintaining the sponsorship rests with the board of regents; or

(c) a state or federally recognized Indian tribe located within the boundaries of the state of Montana.

(3) "Board of trustees" means the board of trustees of a charter school district established in [section 4].

(4) "Public charter school" means any new school program that is not currently being operated as a public or a private school and that is approved by an authorizer to operate as a public school under [sections 1 through 18].

(5) "School district" has the meaning provided in 20-6-101 for "district".

(6) "Sponsor" means the entity responsible for monitoring the performance of a public charter school.

The term includes:

(a) the board of trustees of the existing school district in which the public charter school is located that has developed a written charter with an applicant to create a public charter school;

(b) a unit of the university system for which the ultimate responsibility for choosing to sponsor a charter school and the responsibility for maintaining the sponsorship rests with the board of regents;

(c) the board of public education, through a review process provided for in [section 10]; or

(d) a state or federally recognized Indian tribe located within the boundaries of the state of Montana.

(7) "State board" means the board of public education provided for in Article X, section 9(3), of the Montana constitution.

NEW SECTION. Section 4. Charter school district board of trustees -- powers and duties. (1)

There is a board of trustees for each charter school district.

(2) The board of trustees consists of five members elected as provided in the district's charter. If an applicant for or an operator of a public charter school is an existing school district, the board of trustees may be identical to the board of trustees of the existing school district.

(3) The board of trustees:

(a) shall exercise general supervision over the charter schools formed within the boundaries of the charter school district;

(b) shall provide leadership and support for sponsors to increase the innovation in and the effectiveness, accountability, and fiscal soundness of public charter schools;

(c) shall develop an attendance agreement as required in [section 18];

(d) shall keep a record of its proceedings;

(e) shall sign a contract with a sponsor for the establishment of a public charter school or a charter school district;

(f) may contract, sue, and be sued;

(g) shall secure insurance for liability and property loss;

(h) may pledge, assign, or encumber the charter school's or charter school district's assets to be used as collateral for loans or extensions of credit; and

(i) may accept gifts, donations, or grants.

(4) The board of trustees shall adopt rules:

(a) governing the conduct of the board of trustees' business; and

(b) establishing the financial reporting procedures required of public charter schools.

(5) The members of the board of trustees are not personally liable for:

(a) any acts or omissions of a public charter school or a charter school district, including acts or omissions relating to the:

(i) application submitted by a charter school district;

(ii) charter of a charter school district;

(iii) operation of a public charter school or charter school district; or

(iv) performance of a public charter school or charter school district; or

(b) the debts or financial obligations of a charter school district or persons who operate a charter school district.

(6) A member of the board of trustees is prohibited from working for a sponsor or as an employee, agent,

1 or contractor of an entity with whom a public charter school contracts, directly or indirectly, for professional
2 services, goods, or facilities. A member of the board of trustees who violates this prohibition is individually liable
3 to the charter school district for any damage caused by the violation.

4
5 **NEW SECTION. Section 5. Rules -- waiver of provisions -- exceptions.** (1) The state board may
6 adopt rules to implement [sections 1 through 18]. The rules must follow the intent of [sections 1 through 18].

7 (2) Upon the application of a public charter school, the state board may grant a waiver of any provision
8 of [sections 1 through 18], except for the appeal provision, if the waiver promotes the development of programs
9 by providers, enhances equitable access by underserved families to the public education of their choice, extends
10 equitable access to public support by all students, or permits high-quality programs of unusual cost.

11
12 **NEW SECTION. Section 6. Formation -- establishment requirements -- proposal submission**
13 **timeline -- prohibitions.** (1) A public charter school may be established:

- 14 (a) as a new public school;
15 (b) from an existing public school or a portion of the school; or
16 (c) from an existing alternative education program.

17 (2) An applicant seeking to establish a public charter school shall submit a written proposal, pursuant
18 to [section 7], to an authorizer at least 120 days prior to the date on which the public charter school plans to begin
19 operating.

20 (3) An applicant seeking to establish a public charter school shall submit any subsequent approvals
21 received from the authorizer to the state board.

22 (4) One or more but not all of the schools in a district may become public charter schools. However, a
23 school in a school district composed of a single school may become a public charter school.

24 (5) Neither an authorizer nor the state board may approve a public charter school proposal that
25 authorizes the conversion of a private school that is tuition-based to a public charter school. However, an
26 authorizer or the state board may approve the conversion of an existing alternative education program into a
27 public charter school.

28 (6) Neither an authorizer nor the state board may approve a public charter school proposal that is
29 affiliated with a private sectarian or religious institution.

1 **NEW SECTION. Section 7. Proposal requirements.** (1) An applicant's written proposal seeking to

2 establish a public charter school must include, at a minimum:

3 (a) identification of the applicant;

4 (b) the name of the public charter school;

5 (c) the legal address, physical location, and facilities of the public charter school, if known;

6 (d) a description of the philosophy and the mission of the public charter school;

7 (e) a description of the curriculum of the public charter school;

8 (f) a description of the curriculum's expected results and the verified methods of measuring and reporting
9 the objectives so as to show the growth in knowledge of students attending the public charter school and that will
10 allow a comparison with students attending public schools;

11 (g) the public charter school's governance structure;

12 (h) the student enrollment projected to be maintained and the ages or grades to be served;

13 (i) a description of any distinctive learning or teaching techniques to be used in the public charter school;

14 (j) a description of admission policies and application procedures;

15 (k) the public charter school's proposed budget and financial plan and evidence that they are financially
16 sound;

17 (l) the standards for student behavior and the procedures for the discipline, suspension, or expulsion of
18 students;

19 (m) the public charter school's proposed school calendar, including the length of the school day and
20 school year;

21 (n) a description of the public charter school's staff members and required teacher qualifications in
22 keeping with state board requirements;

23 (o) the date on which the public charter school would begin operations;

24 (p) the arrangements for any special education and related services provided for children with disabilities;

25 (q) information as to how community groups may be involved in the planning and development of the
26 public charter school;

27 (r) the term of the charter;

28 (s) the plan for bonding or insuring the public charter school, including its buildings and liabilities;

29 (t) a plan, in the case of the termination or nonrenewal of a charter, for the placement of public charter
30 school students, teachers, and other school employees;

1 (u) a plan, in the case of an existing public school being converted to charter status, for:

2 (i) alternative arrangements for students who choose not to attend the public charter school and for
3 teachers and other school employees who choose not to be employed by the public charter school; and

4 (ii) the relationship that will exist between the public charter school and its employees, including proof
5 that the terms and conditions of employment have been addressed with the employees affected and their
6 recognized representatives, if any.

7 (2) In addition to the requirements of subsection (1)(u), the board of trustees of the local school district
8 or the state board may require any additional information considered relevant to the formation or operation of a
9 public charter school.

10 (3) At the request of the applicant, the authorizer or the state board may provide technical assistance
11 in developing the proposal for operating a public charter school. An applicant shall consult with the authorizer
12 prior to submitting a proposal.

13
14 **NEW SECTION. Section 8. Approval process -- public hearing -- evaluation criteria -- notice of**
15 **decisions.** (1) Within 60 days of the receipt of a proposal submitted under [section 6], the authorizer shall hold
16 a public hearing on the proposal.

17 (2) The authorizer shall evaluate the proposal in good faith using the following criteria:

18 (a) the demonstrated, sustainable support for the public charter school by teachers, students, parents,
19 and other community members, including comments received at the public hearing;

20 (b) the public charter school's demonstrated financial stability;

21 (c) the public charter school's capability, in terms of support and planning, to provide comprehensive
22 instructional programs to students;

23 (d) the public charter school's capability, in terms of support and planning, to provide comprehensive
24 instructional programs to students identified by the public charter school as academically low achievers;

25 (e) the extent to which the proposal provided the information required by [section 7];

26 (f) whether the public charter school's value is outweighed by any directly identifiable, significant, and
27 adverse impact on the quality of the public education of the students residing in the school district in which the
28 public charter school will be located;

29 (g) whether any arrangements have been made for any necessary special education and related
30 services for children with disabilities; and

1 (h) whether there are alternative arrangements for students who choose not to attend and for teachers
2 and other school employees who choose not to be employed by the public charter school.

3 (3) Within 30 days of the public hearing, the authorizer shall approve in writing a public charter school
4 proposal or state in writing the reasons for denial.

5 (4) If the proposal is not approved, the reasons for the denial and suggested remedial measures, if any,
6 must be clearly outlined in the notice sent to the public charter school. If the proposal is not approved, the public
7 charter school may amend the proposal to address the authorizer's objections and any suggested remedial
8 measures and then resubmit the proposal to the authorizer. The authorizer shall approve or disapprove the
9 resubmitted proposal within 20 days of receipt. If the proposal is again not approved, the public charter school
10 may request that the state board review the decision as provided for in [section 10].

11 (5) Individual elements of a public charter school's proposal may be modified during the proposal and
12 chartering process.

13 (6) A proposal to convert an existing public school to a public charter school must be approved by the
14 public school district's board of trustees.

15 (7) The authorizer or the state board may grant an extension of any deadline required under this section
16 for good cause shown.

17
18 **NEW SECTION. Section 9. Terms and form of charter -- amendment -- renewal -- appeals.** (1) Upon
19 the authorizer's approval of a public charter school's proposal, the authorizer shall become the sponsor of the
20 public charter school's charter. The public charter school and the sponsor shall develop a written charter
21 containing the provisions of the proposal that have been approved by the sponsor and the public charter school's
22 board of trustees. The public charter school and the sponsor may agree to modify the elements of the proposal
23 prior to their incorporation into the charter or they may agree to exclude certain elements. When executed by the
24 sponsor and the public charter school's board of trustees, the charter is the legal authorization for the
25 establishment of the public charter school. The charter is legally binding on both the sponsor and the public
26 charter school's board of trustees.

27 (2) By joint agreement, the sponsor and the public charter school's board of trustees may amend the
28 charter.

29 (3) (a) The initial charter must be in effect for a period of not more than 5 years and must be renewed
30 upon the authorization of the sponsor using the process established under this section.

1 (b) The initial renewal of a charter must be for the same period of time as the duration of the initial
2 charter.

3 (c) Subsequent renewals of a charter must be for a minimum of 5 years but may not exceed 10 years.

4 (4) (a) The public charter school's board of trustees shall submit a written renewal request to the sponsor
5 for consideration at least 180 days prior to the charter's expiration.

6 (b) Within 45 days after receiving a written renewal request from a public charter school's board of
7 trustees, the sponsor shall hold a public hearing regarding the request for the renewal.

8 (c) Within 10 days of the public hearing, the sponsor shall notify the public charter school's board of
9 trustees of the sponsor's intention regarding the renewal of the charter.

10 (d) Within 20 days of the public hearing, the sponsor shall either approve the renewal or state in writing
11 the reasons for denial.

12 (e) Within 90 days of the sponsor approving the charter's renewal, the sponsor and the public charter
13 school's board of trustees shall negotiate a new charter unless they agree to an extension of the time period.

14 (f) If the sponsor decides not to renew the charter, the public charter school's board of trustees may
15 choose to address the written reasons for the denial and any remedial measures suggested by the sponsor and
16 then submit a revised request for renewal to the sponsor.

17 (5) Notwithstanding the provisions of this section, a sponsor and a public charter school's board of
18 trustees may agree in the charter to a timeline for renewing the charter that varies from the one established by
19 this section.

20 (6) (a) If the sponsor decides not to renew the charter based upon the revised request for renewal, the
21 public charter school's board of trustees may appeal this decision to the state board. This appeal is limited to
22 whether the sponsor followed the process required by this section.

23 (b) If the state board finds the sponsor followed the process required by this section in denying the
24 request for renewal, the state board shall affirm the sponsor's decision. A public charter school's board of trustees
25 may seek judicial review of an order of the state board pursuant to 2-4-702.

26 (c) If the state board finds the sponsor failed to follow the process required by this section in denying the
27 request for renewal, the state board shall order the sponsor to reconsider the renewal request.

28 (d) If after reconsideration the sponsor does not renew the charter, the public charter school's board of
29 trustees may seek judicial review, pursuant to 2-4-702, as to whether the state board followed the process
30 required by this section in denying the renewal request.

(7) (a) The sponsor shall base the charter renewal decision on a good faith evaluation of whether the public charter school:

(i) is in compliance with this section and all other applicable state and federal laws;

(ii) is in compliance with the public charter school's charter;

(iii) is meeting or working toward meeting the student performance goals and agreements specified in the charter or any other written agreements between the sponsor and the public charter school's board of trustees;

(iv) is fiscally stable; and

(v) is in compliance with any renewal criteria specified in the charter.

(b) The sponsor shall base the renewal evaluation primarily upon a review of the public charter school's annual performance reports, annual audit of accounts, and annual site visit and review as well as any other information mutually agreed upon by the sponsor and the public charter school's board of trustees.

NEW SECTION. Section 10. Review of authorizer's decision on initial approval -- state board of public education as sponsor -- judicial review of decision. (1) If an authorizer decides not to approve a proposal to start a public charter school, the public charter school may request that the state board review the authorizer's decision.

(2) Upon receipt of a request for review, the state board shall attempt to mediate a resolution between the authorizer and the public charter school, including recommending revisions to the proposal for the public charter school.

(3) If the authorizer does not agree to accept the revisions to the proposal and the public charter school agrees to sponsorship by the state board, the state board may become the public charter school's sponsor.

(4) Upon receipt of the request for review of the authorizer's decision, in addition to the actions previously described in this section and at any time during the review process, the state board may reject a proposal to establish a public charter school if the school fails to meet the requirements of [sections 1 through 18].

(5) A public charter school may seek judicial review of an order of the state board pursuant to 2-4-702. If the district court finds that the decision of the state board is not supported by substantial evidence in the record, the court shall enter an order directing the state board to sponsor the public charter school.

NEW SECTION. Section 11. Annual report -- review visit -- audit. (1) A public charter school shall

1 report to the sponsor and the state board at least annually on the performance of the public charter school and
2 its students. A public charter school shall disclose in its report information necessary to determine its compliance
3 with the requirements of [sections 1 through 18]. The sponsor or the sponsor's designee shall visit, at least
4 annually, the public charter school site and review the public charter school's compliance with the terms and
5 provisions of the charter.

6 (2) The public charter school must have an annual audit of the accounts of the public charter school
7 prepared in accordance with all financial reporting requirements established by the state board and the reporting
8 requirements for federal and philanthropic grant fund foundations.

9 (3) The state board may require public charter schools, to file reports with the U.S. department of
10 education so the department may gather information on public charter schools, which may include but is not
11 limited to:

12 (a) student performance on state assessments and on national assessments;

13 (b) data required by the federal No Child Left Behind Act of 2001, 20 U.S.C. 6301, et seq. Unless a
14 public charter school or student subgroup has six or fewer students, the state board shall include the actual
15 percentage of students in a particular school or student subgroup who achieved adequate yearly progress as
16 required by the No Child Left Behind Act of 2001, 20 U.S.C. 6301, et seq.

17 (4) The purpose of the reports filed under subsection (3) is to monitor trends among public charter
18 schools and to:

19 (a) allow educators and local citizens to identify and share successful and unsuccessful school
20 programs;

21 (b) allow educators to sustain support for reforms demonstrated to be successful;

22 (c) recognize schools for their progress and achievements; and

23 (d) facilitate the issue of educational resources and innovations in the most effective manner.

24
25 **NEW SECTION. Section 12. Termination of charter -- appeals -- rules -- dissolution or closure of**
26 **school.** (1) The sponsor may terminate the charter of a public charter school for any of the following deficiencies
27 on the part of the public charter school:

28 (a) failing to meet the terms of an approved charter;

29 (b) failing to meet the requirements for student performance stated in the charter;

30 (c) failing to correct a violation of a federal or state law;

1 (d) failing to maintain insurance as described in the charter;

2 (e) failing to maintain financial stability.

3 (2) If a charter is to be terminated, the sponsor shall notify the public charter school's board of trustees
4 at least 60 days prior to the effective date of the termination. The notice must state the reasons for the
5 termination. The public charter school's board of trustees may request a hearing before its sponsor on the
6 decision to terminate.

7 (3) A public charter school's board of trustees may appeal a decision to terminate to the state board if
8 the sponsor is the board of trustees of the public school district, a unit of the university system, or a state or
9 federally recognized Indian tribe located within the boundaries of the state of Montana. If the state board is the
10 sponsor, the public charter school may seek judicial review pursuant to 2-4-702. The state board shall adopt by
11 rule the procedures to ensure a timely appeals process that prevents the disruption of the students' education.

12 (4) (a) A sponsor may immediately terminate a charter and close a public charter school if the health or
13 safety of the students is endangered.

14 (b) The public charter school's board of trustees may request a hearing before its sponsor on the
15 immediate termination of its charter. The sponsor shall hold a hearing within 10 days of receiving the request.

16 (c) If the sponsor upholds its decision to immediately terminate the charter, the public charter school's
17 board of trustees may appeal to the state board. Within 10 days of receiving the notice of appeal, the state board
18 shall hold a hearing. If the state board is the sponsor, the public charter school may seek judicial review pursuant
19 to 2-4-702.

20 (d) The public charter school must remain closed throughout the appeals process unless the state board
21 orders the sponsor to open the school and sets aside the sponsor's decision to terminate the charter.

22 (5) Termination of a charter does not affect the public charter school's authority to operate as a private
23 school.

24 (6) If a charter is terminated or a public charter school is voluntarily dissolved, the assets of the public
25 charter school that were purchased with public funds must be transferred to the state board, which may disburse
26 those assets to other public charter schools or school districts.

27 (7) If a public charter school is voluntarily dissolved, the public charter school's board of trustees shall
28 notify its sponsor as least 180 days prior to the proposed effective date. A public charter school's board of
29 trustees may only voluntarily dissolve the school on a date that will coincide with the end of the semester.

1 **NEW SECTION. Section 13. Applicability of laws -- restrictions -- powers -- student diplomas and**
2 **alternative certificates.** (1) A public charter school may not violate the establishment clause of the first
3 amendment to the United States constitution or Article V, section 11(5), of the Montana constitution, and a public
4 charter school may not be based on religion.

5 (2) A public charter school must maintain an active enrollment of at least 25 students.

6 (3) A public charter school may sue or be sued as a separate legal entity.

7 (4) A sponsor, members of the sponsor's governing board, and employees of a sponsor acting in their
8 official capacities are immune from civil liability with respect to all activities related to a public charter school within
9 the scope of their duties or employment.

10 (5) A public charter school may enter into contracts and may lease facilities and services from a school
11 district, a unit of the university system, other governmental units, or any person or legal entity.

12 (6) A public charter school may not levy taxes or issue bonds that incur public debt.

13 (7) A public charter school may receive and accept gifts, grants, and donations from any source for
14 expenditures to carry out the lawful functions of the school.

15 (8) The school district in which the public charter school is located shall offer a high school diploma,
16 modified diploma, or alternative certificate to any public charter school student who meets the district's and the
17 state's standards for a high school diploma, modified diploma, or alternative certificate.

18 (9) A high school diploma, modified diploma, or alternative certificate issued by a public charter school
19 grants the holder the same rights and privileges as a high school diploma, modified diploma, or alternative
20 certificate issued by a public school district.

21 (10) Prior to beginning operations, the public charter school shall show proof of insurance to its sponsor
22 as specified in its charter.

23
24 **NEW SECTION. Section 14. Student admissions -- online courses -- fundraising activities.** (1)
25 Enrollment in a public charter school must be voluntary. All students who reside within the school district where
26 the public charter school is located are eligible for enrollment at a public charter school. If the number of
27 applications from students who reside in the school district exceeds the capacity of a program, class, grade level,
28 or building, the public charter school shall select students through an equitable lottery process. However, after
29 a public charter school has been in operation for 1 year or more, the public charter school may give priority for
30 admission to students:

1 (a) who were enrolled in the school in the prior year; or

2 (b) who have siblings who are presently enrolled in the school and who were enrolled in the school in
3 the prior year.

4 (2) (a) If space is available, a public charter school may admit students who do not reside in the school
5 district in which the public charter school is located.

6 (b) If a public charter school offers any online courses as part of its curriculum, then at least 50% of the
7 students who attend the public charter school must reside in the school district in which the public charter school
8 is located.

9 (3) A public charter school may not limit student admissions based upon ethnicity, national origin, race,
10 religion, disability, gender, income level, English language proficiency, or athletic ability, but it may limit admission
11 to students within a given age group or grade level.

12 (4) A public charter school may conduct fundraising activities. However, a public charter school may not
13 require a student to participate in fundraising activities as a condition of admission to the public charter school.
14

15 **NEW SECTION. Section 15. Public charter school development accounts.** (1) There is a public
16 charter school development account in the state special revenue fund. The account consists of all funds received
17 from nonfederal sources for public charter school development. Money in the account must be used by the state
18 board for the sole benefit of public charter schools.

19 (2) There is a public charter school development account in the federal special revenue fund. All money
20 received from the federal government for charter schools must be deposited in the account. The state board shall
21 use the money in the account for the sole benefit of public charter schools.
22

23 **NEW SECTION. Section 16. Employees -- licensure and registration requirements -- collective**
24 **bargaining -- prohibition on waiver of right to sponsor charter school.** (1) Employee assignment to a public
25 charter school must be voluntary.

26 (2) A public charter school or the sponsor of the public charter school is the employer of any employee
27 of the public charter school. If a school district board is not the sponsor of the public charter school, the school
28 district board is not the employer of the employees of the public charter school. The charter school's board of
29 trustees or the sponsor shall engage in collective bargaining with the employees of the public charter school. The
30 public charter school's board of trustees shall control the selection of employees at the public charter school.

(3) The board of trustees of the school district within which the public charter school is located shall grant a leave of absence to any employee who chooses to work for the public charter school. The terms and length of the leave of absence must be set by negotiated agreement or by board policy. However, the length of the leave of absence may not be less than 2 years unless:

(a) the public charter school's charter is terminated or the public charter school is dissolved or closed during the employee's leave of absence; or

(b) the employee and the school district's board of trustees have mutually agreed to a different length of time.

(4) An employee of a public charter school operating within a school district who is granted a leave of absence from the school district and returns to employment with the school district shall retain seniority and benefits as an employee pursuant to the terms of the leave of absence.

(5) For purposes of teacher licensing, employment experience in public charter schools must be considered the equivalent of experience in public schools.

(6) (a) A person employed as an administrator in a public charter school must be licensed or certified as an administrator by the state.

(b) A person employed as a teacher in a public charter school must be licensed or certified as a teacher by the state.

(7) An employee of a public charter school may be a member of a labor organization or may organize with other employees to bargain collectively. Bargaining units at the public charter school may be separate from other bargaining units of the sponsor or of the school district in which the public charter school is located. Employees of a public charter school may be part of the bargaining units of the sponsor or of the school district in which the public charter school is located.

(8) A school district or the state board may not waive the right to sponsor a public charter school in a collective bargaining agreement.

NEW SECTION. Section 17. Responsibility for student transportation -- costs. (1) The public charter school must be responsible for providing transportation for students who reside within the school district and who attend the public charter school. The public charter school may negotiate with a school district for the provision of transportation to students attending the public charter school.

(2) (a) Notwithstanding any other provision in this section, the school district within which the public

1 charter school is located is responsible, pursuant to 20-10-121, for the transportation of students attending the
2 public charter school in the same manner as students attending noncharter public schools if the student is a
3 resident of the school district.

4 (b) The school district within which the public charter school is located may, pursuant to 20-10-122,
5 provide for the transportation of students attending the public charter school but considered not to be an eligible
6 transportee of the district.

7 (3) Students who attend public charter schools and who reside outside the school district may use the
8 existing bus routes and transportation services of the school district in which a public charter school is located.

9 (4) Any transportation costs incurred by a school district under this section are approved transportation
10 costs for the purposes of 20-10-143 in the same manner as the transportation costs incurred by the school district
11 for transporting students who attend nonchartered public schools.

12
13 **NEW SECTION. Section 18. Attendance agreement -- funding.** (1) A public charter school district
14 may not charge tuition. However, approval of an attendance agreement that allows a child to enroll in and attend
15 a public charter school is mandatory.

16 (2) Whenever a parent or guardian of a child wishes to have the child attend a public charter school
17 within a charter school district or outside the district, the parent or guardian shall notify the trustees of the child's
18 district of residence on an attendance agreement form supplied by the public charter school and in accordance
19 with rules adopted by the state board. Notification must be made within 10 days of the child's enrollment in the
20 public charter school. If space is available for the child to enroll in a public charter school, the trustees of the
21 district of residence shall approve the attendance agreement within 10 days of receipt of the agreement.

22 (3) A public charter school or charter school district is entitled to 95% of the pro rata share of the total
23 per-ANB entitlement within the BASE budget and the maximum fund budget of the child's district of residence.

24 (4) A public charter school or charter school district may receive money from any source for capital
25 needs. In a report to the board, a public charter school shall report the total amount of funds received from grants
26 and other outside sources.

27
28 **Section 19.** Section 20-2-121, MCA, is amended to read:

29 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

30 (1) effect an orderly and uniform system for teacher certification and specialist certification and for the

1 issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and
2 20-4-111;

3 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial
4 of teacher or specialist certification in accordance with the provisions of 20-4-110;

5 (3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;

6 (4) adopt and enforce policies to provide uniform standards and regulations for the design, construction,
7 and operation of school buses in accordance with the provisions of 20-10-111;

8 (5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types
9 of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of
10 20-1-303 and 20-1-304;

11 (6) adopt standards of accreditation and establish the accreditation status of every school in accordance
12 with the provisions of 20-7-101 and 20-7-102;

13 (7) approve or disapprove educational media selected by the superintendent of public instruction for the
14 educational media library in accordance with the provisions of 20-7-201;

15 (8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

16 (9) adopt rules for issuance of documents certifying equivalency of completion of secondary education
17 in accordance with 20-7-131;

18 (10) adopt policies for the conduct of programs for gifted and talented children in accordance with the
19 provisions of 20-7-903 and 20-7-904;

20 (11) adopt rules for student assessment in the public schools; ~~and~~

21 (12) within 6 months of [the effective date of this act], adopt rules consistent with the provisions of
22 [sections 1 through 18] to facilitate and not impair the establishment and operation of public charter schools or
23 charter school districts pursuant to [sections 1 through 18], including but not limited to rules:

24 (a) governing financial reporting requirements;

25 (b) securing equitable enforcement of charters; and

26 (c) applying for appeals from revocation of charters; and

27 ~~(12)~~(13) perform any other duty prescribed from time to time by this title or any other act of the
28 legislature."
29

30 **Section 20.** Section 20-5-321, MCA, is amended to read:

"20-5-321. Attendance with mandatory approval -- tuition and transportation. (1) An out-of-district

attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

(a) the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and the resident district does not provide transportation; ~~or~~

(b) (i) the child resides in a location where, because of geographic conditions between the child's home and the school that the child would attend within the district of residence, it is impractical to attend school in the district of residence, as determined by the county transportation committee based on the following criteria:

(A) the length of time that is in excess of the 1-hour limit for each bus trip for an elementary child as authorized under 20-10-121;

(B) whether distance traveled is greater than 40 miles one way from the child's home to school on a dirt road or greater than a total of 60 miles one way from the child's home to school in the district of residence over the shortest passable route; or

(C) whether the condition of the road or existence of a geographic barrier, such as a river or mountain pass, causes a hazard that prohibits safe travel between the home and school.

(ii) The decision of the county transportation committee is subject to appeal to the superintendent of public instruction, as provided in 20-3-107, but the decision must be considered as final for the purpose of the payment of tuition under 20-5-324(5)(a)(ii) until a decision is issued by the superintendent of public instruction. The superintendent of public instruction may review and rule upon a decision of the county transportation committee without an appeal being filed.

(c) the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school. A child enrolled in an elementary school pursuant to this subsection (1)(c) may continue to attend the elementary school after the other child has left the high school.

(d) the child is under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, as defined in 41-5-103;

(e) the child is required to attend school outside of the district of residence as the result of a placement

1 in foster care or a group home licensed by the state; ~~or~~

2 (f) the child is residing with a caretaker relative who wants to enroll the child pursuant to 20-5-502; or

3 (g) the child is enrolled in a public charter school established under the provisions of [sections 1 through
4 18].

5 (2) (a) Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child
6 attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an
7 out-of-district attendance agreement in consultation with an appropriate official of the district that the child will
8 attend.

9 (b) The attendance agreement must set forth the financial obligations, if any, for costs incurred for tuition
10 and transportation as provided in 20-5-323 and Title 20, chapter 10.

11 (c) (i) The trustees of the district of choice may waive any or all of the tuition rate. The trustees of the
12 district of choice may waive the tuition for all students whose tuition is required to be paid by one type of entity
13 and may charge tuition for all students whose tuition is required to be paid by another type of entity. However,
14 any waiver of tuition must be applied equally to all students whose tuition is paid by the same type of entity.

15 (ii) As used in this subsection (2)(c), "entity" means a parent, a guardian, the trustees of the district of
16 residence, or a state agency.

17 (3) Except as provided in subsection (4), the trustees of the resident district and the trustees of the
18 district of attendance shall approve the out-of-district attendance agreement. The trustees of the district of
19 attendance shall:

20 (a) notify the county superintendent of schools of the county of the child's residence of the approval of
21 the agreement within 10 days; and

22 (b) submit the agreement for a student attending under the provisions of subsection (1)(d) or (1)(e) to
23 the superintendent of public instruction for approval for payment under 20-5-324.

24 (4) Unless the child is a child with a disability who resides in the district, the trustees of the district where
25 the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find
26 that, because of insufficient room and overcrowding, the accreditation of the school would be adversely affected
27 by the acceptance of the child."

28
29 **Section 21.** Section 20-5-323, MCA, is amended to read:

30 **"20-5-323. Tuition and transportation rates -- exception.** (1) Except as provided in subsections (2)

through (5), whenever a child has approval to attend a school outside of the child's district of residence under the provisions of 20-5-320 or 20-5-321, the rate of tuition charged for a Montana resident student may not exceed 20% of the per-ANB maximum rate established in 20-9-306 for the year of attendance.

(2) The tuition for a child with a disability must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for special education pupils.

(3) The tuition rate for out-of-district placement pursuant to 20-5-321(1)(d) and (1)(e) for a student without disabilities who requires a program with costs that exceed the average district costs must be determined as the actual individual costs of providing that program according to the following:

(a) the district of attendance and the district, person, or entity responsible for the tuition payments shall approve an agreement with the district of attendance for the tuition cost;

(b) for a Montana resident student, 80% of the maximum per-ANB rate established in 20-9-306, received in the year for which the tuition charges are calculated, must be subtracted from the per-student program costs for a Montana resident student; and

(c) the maximum tuition rate paid to a district under this section may not exceed \$2,500 per ANB.

(4) When a child attends a public school of another state or province, the amount of daily tuition may not be greater than the average annual cost for each student in the child's district of residence. This calculation for tuition purposes is determined by totaling all of the expenditures for all of the district budgeted funds for the preceding school fiscal year and dividing that amount by the October 1 enrollment in the preceding school fiscal year. For the purposes of this subsection, the following do not apply:

(a) placement of a child with a disability pursuant to Title 20, chapter 7, part 4;

(b) placement made in a state or province with a reciprocal tuition agreement pursuant to 20-5-314;

(c) an order issued under Title 40, chapter 4, part 2; or

(d) out-of-state placement by a state agency.

(5) When a child is placed by a state agency in an out-of-state residential facility, the state agency making the placement is responsible for the education costs resulting from the placement.

(6) The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost for each student in the child's district of residence or 35 cents a mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

(7) The provisions of this section do not apply to a charter school district established under [sections 1

1 through 18]."

2

3 **Section 22.** Section 20-5-324, MCA, is amended to read:

4 **"20-5-324. Tuition report and payment provisions -- exceptions.** (1) Following the close of each
5 school fiscal year, the trustees of a district shall report to the superintendent of public instruction:

6 (a) the name and district of residence of each child who attended a school of the district under a
7 mandatory out-of-district attendance agreement approved under the provisions of 20-5-321(1)(d) or (1)(e) in the
8 previous school year;

9 (b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

10 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
11 20-5-323, and the tuition cost for each child reported under the provisions of subsection (1)(a);

12 (d) the names, districts of attendance, and amount of tuition paid by the district for resident students
13 attending public schools out of state in the previous school year; and

14 (e) the names, schools of attendance, and amount of tuition to be paid by the district for resident students
15 attending day-treatment programs under approved individualized education programs at private, nonsectarian
16 schools in the previous school year.

17 (2) Subject to the limitations of 20-5-323, the superintendent of public instruction shall:

18 (a) pay the district of attendance the amount of the tuition obligation reported under subsection (1)(c),
19 prorated for the actual days of enrollment;

20 (b) determine the total per-ANB entitlement for which the district would have been eligible if the students
21 reported in subsections (1)(d) and (1)(e) had been enrolled in the resident district in the prior year; and

22 (c) reimburse the district of residence for the state portion of the per-ANB entitlement for each student,
23 not to exceed the district's actual payment of tuition or fees for service for the student in the previous year.

24 (3) In order to be eligible to receive payment under subsection (2), the trustees of the district of
25 attendance shall submit the report required by subsection (1) within the school fiscal year following the year of
26 attendance.

27 (4) Notwithstanding the requirements of subsection (5)(a), tuition payment provisions for out-of-district
28 placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.

29 (5) (a) (i) When a child has approval to attend a school outside the child's district of residence at the
30 resident district's expense under the provisions of 20-5-320 or 20-5-321(1)(a) or (1)(b) or when a child has

1 approval to attend a day-treatment program under an approved individualized education program at a private,
2 nonsectarian school located in or outside of the child's district of residence, the district of residence shall finance
3 the tuition amount from the district tuition fund and any transportation amount from the transportation fund.

4 (ii) By December 31 of the school fiscal year following the year of attendance, the district of residence
5 shall pay at least one-half of any tuition and transportation obligation established under subsection (5)(a)(i) out
6 of the money realized to date from the district tuition or transportation fund. The remaining tuition and
7 transportation obligation must be paid by June 15 of the school fiscal year following the year of attendance.

8 (b) When a child has approval to attend a school outside the child's district of residence because of a
9 parent's or guardian's request under the provisions of 20-5-320 or 20-5-321(1)(c), the parent or guardian of the
10 child shall finance the tuition and transportation amount.

11 (6) (a) Except as provided in subsections (6)(b) through (6)(d), the district shall credit tuition receipts to
12 the district general fund and transportation receipts to the transportation fund.

13 (b) Any tuition receipts received under the provisions of 20-5-323(3) for the current school fiscal year
14 that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund
15 and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for
16 which the tuition was received.

17 (c) Any tuition receipts received for the current school fiscal year for a pupil who is a child with a disability
18 that exceed the tuition amount received for a pupil without disabilities may be deposited in the district
19 miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support
20 the costs of the program for which the tuition was received.

21 (d) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts
22 of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in
23 the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the
24 district general fund budget.

25 (7) The reimbursements paid under subsection (2)(c) must be deposited into the district tuition fund and
26 must be used by the district to pay obligations for resident students attending public schools out of state or for
27 resident students attending day-treatment programs under approved individualized education programs at private,
28 nonsectarian schools at district expense.

29 (8) The provisions of this section do not apply to out-of-state placements made by a state agency
30 pursuant to 20-7-422 or to a charter school district established under the provisions of [sections 1 through 18]."

1

2 **Section 23.** Section 20-6-104, MCA, is amended to read:

3 **"20-6-104. Moratorium on creation of new district -- exceptions.** (1) Except as provided in
4 subsections (2) and (3), a school district may not initiate the creation of a new elementary district or a new high
5 school district.

6 (2) Pursuant to the provisions of 20-6-326, the trustees or the electors of an existing elementary district
7 may initiate the creation of a new high school district solely for the purpose of expanding into a K-12 district.

8 (3) The moratorium in subsection (1) does not apply to a district that results from the procedure for the
9 dissolution of a K-12 school district pursuant to 20-6-704 or to a charter school district established under the
10 provisions of [sections 1 through 18]."

11

12 **Section 24.** Section 20-9-306, MCA, is amended to read:

13 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the following
14 definitions apply:

15 (1) "BASE" means base amount for school equity.

16 (2) "BASE aid" means:

17 (a) direct state aid for 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the
18 general fund budget of a district;

19 (b) guaranteed tax base aid for an eligible district for any amount up to 35.3% of the basic entitlement,
20 up to 35.3% of the total per-ANB entitlement budgeted in the general fund budget of a district, and 40% of the
21 special education allowable cost payment;

22 (c) the total quality educator payment;

23 (d) the total at-risk student payment;

24 (e) the total Indian education for all payment; and

25 (f) the total American Indian achievement gap payment.

26 (3) "BASE budget" means, except for a public charter school or charter school district funded pursuant
27 to [section 18], the minimum general fund budget of a district, which includes 80% of the basic entitlement, 80%
28 of the total per-ANB entitlement, 100% of the total quality educator payment, 100% of the total at-risk student
29 payment, 100% of the total Indian education for all payment, 100% of the total American Indian achievement gap
30 payment, and 140% of the special education allowable cost payment.

(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366 through 20-9-369.

(5) "BASE funding program" means the state program for the equitable distribution of the state's share of the cost of Montana's basic system of public elementary schools and high schools, through county equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343, in support of the BASE budgets of districts and special education allowable cost payments as provided in 20-9-321.

(6) "Basic entitlement" means:

(a) for each high school district:

(i) \$236,552 for fiscal year 2008; and

(ii) \$243,649 for each succeeding fiscal year;

(b) for each elementary school district or K-12 district elementary program without an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) \$21,290 for fiscal year 2008;

(ii) \$21,922 for each succeeding fiscal year; and

(c) for each elementary school district or K-12 district elementary program with an approved and accredited junior high school, 7th and 8th grade program, or middle school:

(i) for kindergarten through grade 6 elementary program:

(A) \$21,290 for fiscal year 2008; and

(B) \$21,922 for each succeeding fiscal year; plus

(ii) for an approved and accredited junior high school program, 7th and 8th grade program, or middle school:

(A) \$60,275 for fiscal year 2008; and

(B) \$62,083 for each succeeding fiscal year.

(7) "Budget unit" means the unit for which the ANB of a district is calculated separately pursuant to 20-9-311.

(8) "Direct state aid" means 44.7% of the basic entitlement and 44.7% of the total per-ANB entitlement for the general fund budget of a district and funded with state and county equalization aid.

(9) "Maximum general fund budget" means a district's general fund budget amount calculated from the basic entitlement for the district, the total per-ANB entitlement for the district, the total quality educator payment,

1 the total at-risk student payment, the total Indian education for all payment, the total American Indian achievement
2 gap payment, and the greater of:

3 (a) 175% of special education allowable cost payments; or

4 (b) the ratio, expressed as a percentage, of the district's special education allowable cost expenditures
5 to the district's special education allowable cost payment for the fiscal year that is 2 years previous, with a
6 maximum allowable ratio of 200%.

7 (10) "Over-BASE budget levy" means the district levy in support of any general fund amount budgeted
8 that is above the BASE budget and below the maximum general fund budget for a district.

9 (11) "Total American Indian achievement gap payment" means the payment resulting from multiplying
10 \$200 times the number of American Indian students enrolled in the district as provided in 20-9-330.

11 (12) "Total at-risk student payment" means the payment resulting from the distribution of any funds
12 appropriated for the purposes of 20-9-328.

13 (13) "Total Indian education for all payment" means the payment resulting from multiplying \$20.40 times
14 the ANB of the district or \$100 for each district, whichever is greater, as provided for in 20-9-329.

15 (14) "Total per-ANB entitlement" means, except for a public charter school or charter school district
16 funded pursuant to [section 18], the district entitlement resulting from the following calculations and using either
17 the current year ANB or the 3-year ANB provided for in 20-9-311:

18 (a) for a high school district or a K-12 district high school program, a maximum rate of \$5,861 for fiscal
19 year 2008 and \$6,037 for each succeeding fiscal year for the first ANB, decreased at the rate of 50 cents per ANB
20 for each additional ANB of the district up through 800 ANB, with each ANB in excess of 800 receiving the same
21 amount of entitlement as the 800th ANB;

22 (b) for an elementary school district or a K-12 district elementary program without an approved and
23 accredited junior high school, 7th and 8th grade program, or middle school, a maximum rate of \$4,579 for fiscal
24 year 2008 and \$4,716 for each succeeding fiscal year for the first ANB, decreased at the rate of 20 cents per ANB
25 for each additional ANB of the district up through 1,000 ANB, with each ANB in excess of 1,000 receiving the
26 same amount of entitlement as the 1,000th ANB; and

27 (c) for an elementary school district or a K-12 district elementary program with an approved and
28 accredited junior high school, 7th and 8th grade program, or middle school, the sum of:

29 (i) a maximum rate of \$4,579 for fiscal year 2008 and \$4,716 for each succeeding fiscal year for the first
30 ANB for kindergarten through grade 6, decreased at the rate of 20 cents per ANB for each additional ANB up

1 through 1,000 ANB, with each ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th
2 ANB; and

3 (ii) a maximum rate of \$5,861 for fiscal year 2008 and \$6,037 for each succeeding fiscal year for the first
4 ANB for grades 7 and 8, decreased at the rate of 50 cents per ANB for each additional ANB for grades 7 and 8
5 up through 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th
6 ANB.

7 (15) "Total quality educator payment" means the payment resulting from multiplying \$3,036 for fiscal year
8 2008 and \$3,042 for each succeeding fiscal year times the number of full-time equivalent educators as provided
9 in 20-9-327."

10
11 NEW SECTION. **Section 25. Two-thirds vote required.** Because [sections 4 and 13] limit
12 governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the
13 members of each house of the legislature for passage.

14
15 NEW SECTION. **Section 26. Notification to tribal governments.** The secretary of state shall send
16 a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
17 Chippewa tribe.

18
19 NEW SECTION. **Section 27. Codification instruction.** [Sections 1 through 18] are intended to be
20 codified as an integral part of Title 20, and the provisions of Title 20 apply to [sections 1 through 18].

21
22 NEW SECTION. **Section 28. Effective date.** [This act] is effective July 1, 2009.

23 - END -